

Legal Assistance Resource Center

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Testimony submitted to the Human Services Committee in opposition to Proposed Bills 5424, 5430 and 5431

by Jane McNichol, Executive Director
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Good afternoon. I am Jane McNichol, Executive Director of the Legal Assistance Resource Center of Connecticut, the policy advocacy branch of the legal services network in the state. We represent the interests of very-low income residents of the state.

I am here to oppose

- **Proposed Bill 5424**, An Act Prohibiting Public Assistance for Those Who Abandon Residency
- **Proposed Bill 5430**, An Act Prohibiting Public Assistance for Persons Who Abandon Residency and
- **Proposed Bill 5431**, An Act Concerning Fraudulent Claims for State Assistance.

The first two bills propose to eliminate public assistance benefits for a resident who leaves the state for more than thirty days and to create a rebuttable presumption of abandonment of Connecticut residency for anyone who leaves the state for more than 30 days. Traveling outside the state for a month does not meet a common sense definition of abandoning residency. Adopting such a definition, or presumption, for use in establishing residency for public assistance programs would raise questions about the reasons for such a restrictive definition.

In the area of public benefits, the question of how a state defines residency has been the subject of multiple U.S. Supreme Court decisions, starting with *Shapiro v. Thompson*, 89 S. Ct. 1322 (1969). These cases establish a constitutional right to travel within the country and subject state laws which limit this right in reference to public benefit recipients to strict scrutiny under the Constitution. The history of these decisions is discussed in a University of Connecticut Law Review article, "Welfare Migration to Capture Higher Benefits: Fact or Fiction", 32 Conn. L. Review 675 (Winter, 2000). Without some clear articulation of a truly compelling reason for such a definition, it seems unlikely that this provision would meet the standards established by the Supreme Court.

Proposed Bill 5431 is unnecessary. The proposal implies that there are no existing penalties for false claims for the programs cited in the bill. In fact, CGS Sec. 4-275 provides that

"(a) No person shall:

- (1) Knowingly present, or cause to be presented, a false or fraudulent claim for payment or approval under a state-administered health or human services program;

(2) Knowingly make, use or cause to be made or used, a false record or statement material to a false or fraudulent claim under a state-administered health or human services program....”

This language already covers all the public benefit programs mentioned in Proposed Bill 5431.

In addition, CGS Sec. 17b-97(b) provides that

Any person who, by means of an intentionally false statement or misrepresentation or by impersonation or other fraudulent act or device, obtains, or attempts to obtain, or aids or abets any person to obtain, any monetary award under the state supplement program, medical assistance program, temporary family assistance program, aid to families with dependent children program, state-administered general assistance program, food stamp program or supplemental nutrition assistance program to which he is not entitled; and any person who, with intent to defraud, buys or aids or abets in buying or in any way disposing of the property of a person receiving an award, and any person who, with intent to defraud, violates the provisions of section 17b-85 or any other provision of said programs shall be subject to the penalties for larceny under sections 53a-122 and 53a-123, depending on the amount involved. When a person receiving assistance is convicted of an offense involving an overpayment of public assistance under said sections, the Commissioner of Social Services may discontinue his award or take such other action as conforms to federal regulations.

CGS Sec. 53a-122 and 123 make obtaining public benefits fraudulently a felony punishable by up to 10 years in jail if the amount obtained is less than \$2,000 and up to 20 years in jail if over the amount is over \$2,000.

I look forward, at a future hearing, to discussing ways to make our family welfare program work better and support families moving from welfare to work. These provisions will not do that.

Thank you for your attention to these important issues.